

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

JEFFREY D. BUTLER, individually,
CLEMENTENE BUTLER, AINEISHA
BUTLER, and MALEIK BUTLER,
Individually,

Plaintiffs,

VS.

No. 23-1054-STA-jay

MAYOR SCOTT CONGER, in his
Official capacity and individual capacity,
And the CITY OF JACKSON, MADISON
COUNTY, TENNESSEE,

Defendants.

ORDER AFFIRMING DECISION OF MAGISTRATE JUDGE
STRIKING PLAINTIFF'S FILINGS

On August 30, 2023, the Magistrate Judge issued an order striking Plaintiff's sur-replies to Defendants' motions to dismiss on the grounds that the Local Rules of this Court do not provide for an automatic right to file a sur-reply and Plaintiff did not receive permission from the Court to do so. (ECF No. 24.) Plaintiff has filed a timely appeal of the Magistrate Judge's decision (ECF No. 25), and Defendants have filed a response to Plaintiff's appeal. (ECF No. 26.)

In considering an appeal of a Magistrate Judge's ruling on a non-dispositive matter, such as the one presently before the Court, the Court applies a "clearly erroneous or contrary to law" standard of review. *United States v. Curtis*, 237 F.3d 598, 603 (6th Cir. 2001) (citing *United States v. Raddatz*, 447 U.S. 667, 673 (1980)); accord *Brown v. Wesley's Quaker Maid, Inc.*, 771 F.2d 952, 954 (6th Cir. 1985) (citing 28 U.S.C. § 636(b)(1)(a)); see also Fed. R. Civ. P. 72(a)

(the district judge “must consider timely objections [to nondispositive pretrial orders of magistrate judge] and modify or set aside any part of the order that is clearly erroneous or is contrary to law”). A finding is “clearly erroneous” when “the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.”

Anderson v. City of Bessemer City, North Carolina, 470 U.S. 564, 573 (1985) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 396 (1948)).

Having reviewed the record and the controlling case law, the Court finds that the Magistrate Judge’s order is neither clearly erroneous nor contrary to law, and his decision is, therefore, **AFFIRMED**. If Plaintiff wants to file a sur-reply to Defendants’ motions to dismiss, he must file a separate motion with an accompanying certificate of consultation.

IT IS SO ORDERED.

s/ S. Thomas Anderson
S. Thomas Anderson
UNITED STATES DISTRICT JUDGE

Date: September 15, 2023